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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,900

11/13/2003

Jurgen Angele

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6098

26694

7590

05/12/2006

VENABLE LLP

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EXAMINER

VEILLARD, JACQUES

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/705,900

Applicant(s)

ANGELE, JURGEN

Examiner

Jacques Veillard

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-16 and 20-45 is/are allowed.
- 6) ☒ Claim(s) 17-19 and 46-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/13/03, 11/15/04</u> | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to the applicant's communication filed on November 13, 2003.
2. Claims 1-52 are pending and presented for examination.

### ***Priority***

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

4. The information disclosure statement (IDS) submitted on November 13, 2003 and November 15, 2004 complies with the provisions of 37 CFR 1.97. Accordingly, it has been placed in the application file. The information referred to therein has been considered as to the merits.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 17-19, 46, 51 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 17, the claim recites the limitations "--a predetermined number of rules can be selected--". The phrase "can be" in line 3 of the claim raises uncertainty (doubt); it doesn't

means anything will be done. Therefore, there is no guarantee that the predetermined number of rules will be selected with the editor. Applicant(s) is/are advised to amend the claims in order to solve the 112 rejection set forth in the claims.

As per claims 18-19, they are also rejected under the same basic analysis due to their dependency.

As per claims 46, 51 and 52, it is unclear what applicant's intended metes and bounds of the claims are, because incorporation by reference to another claim invokes the entire claim, which is being incorporated. Accordingly, there cannot be any inconsistency between the preamble of the claim incorporated by reference and the claim containing the incorporation. When such inconsistency exists, the claim is indefinite under 35 USC 112, second paragraph. See MPEP 2173.02. Therefore, Applicant(s) is/are advised to amend the claims by rewriting them in complete independent form in order to solve the 112 rejection set forth in the claims.

### ***Claim Rejections - 35 USC § 101***

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 47-50 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically directed towards software, per se.

As per claim 47, the claim recites a computer-readable medium containing software code for implementing a multiple steps of instructions in the body of claim. It appears that those

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instructions are functional descriptive material per se. Function descriptive material must be on a computer readable storage medium to be statutory. However, the invention described in claim 47 is not recited as being embodied in a computer-readable storage medium, therefore, it is not statutory. The examiner suggests applicant(s) to amend the claims to read: (A computer-readable storage medium containing software core ...).

9. Claim 52 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, specifically, directed towards a signal, per se.

Claim 52 recites a “modulated data signal” carrying the software code. The claim cannot be placed into one of the four statutory categories of an invention. The claimed subject matter referring to a “modulated data signal”, therefore, a signal, per se. A signal, per se, is regarded as something that in and of itself is incapable of realizing the functionality of the instructions carrying by the software code. Since the Applicant has claimed the method, the computer system, the computer readable medium and means for the invention as disclosed the Examiner suggests canceling the aforementioned rejected claim since no further patent prosecution can be afforded.

#### ***Allowable Subject Matter***

10. The present application has been thoroughly reviewed. The Examiner respectfully submits that claims 1-16, and 20-45 are allowed over the prior art made of record.

#### ***Reasons for Indicating Allowable Subject matter***

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11. The following is an examiner's statement of reasons for allowance: The examiner, upon searching a variety of databases, respectfully submits that *--forming at least one object model, the object model including at least one class structure; allocating data according to one or more classes of the at least one class structure; providing a set of rules, the rules forming a declarative system and linking components of class structures --*, as embodied in the independent claims 1 and 29, wherein the rules include *--defining a predetermined number of axioms, a specific type of rule being allocated to each axiom; and permitting a user to create a rule of a specific type by selecting an associated axiom--*, as recited in claims 18 and 32 dependent of independent claims 1 and 29, in context with the other limitations of the claims was not disclosed by, would not have been obvious over, nor would have been fairly suggested by the prior art of record.

#### ***Examiner's Comment***

12. The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement Reasons Allowance."

As allowable subject matter has been indicated, Applicant's response must either comply with formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP section 707.07(a).

***Other Prior Art Made Of Record***

13. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions. Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov)), from the Office of Public Records and from commercial sources. For the use of the Office's PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

***Points Of Contact***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques Veillard whose telephone number is (571) 272-4086. The examiner can normally be reached on Mon. to Fri. from 9 AM to 4:30 PM, alt. Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272- 4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*J.V.*  
*J.V.*

Jacques Veillard  
Patent Examiner TC 2100

May 9, 2006

  
GRETA ROBINSON  
PRIMARY EXAMINER